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In re Application of: Ernst, et al.)
Application No. 10/796,648)
Filed: March 9, 2004) **DECISION ON PETITION TO MAKE**
For: SYSTEM AND METHOD FOR) **SPECIAL UNDER M.P.E.P. § 708.02(V):**
DETERMINING COMPONENTS OF A) **ENVIRONMENTAL QUALITY**
BLENDED PLASTIC MATERIAL)

This is a decision on the petition, filed March 9, 2004, under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02(V): Environmental Quality, to make the above-identified application special.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section V, for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements, i.e. air, water and soil, must be accompanied by affidavits or declarations under 37 C.F.R. § 1.102 by the applicant or his/her attorney or agent explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements. No fee is required for such a petition.

The instant petition is accompanied by a declaration by applicant explaining that the present invention "*can* increase the use of post-consumer recycled plastics ("PCR") and reduce the volume of plastics in the waste stream (landfill)". As such, Applicant submits that the present invention "*will* materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements". It is noted that the claimed invention appears to be drawn to a method, apparatus and process instructions for determining plastic components of a blended plastic material.

It is pure conjecture to assume that the instant invention will materially enhance the quality of the environment. Petitioner's invention *may* result in an increase in the use of post-consumer recycled plastics and further, may result in the reduction of the volume of plastics in the waste stream (apparently through increased recycling rates), however there is no factual evidence that the invention "*will* materially enhances the quality of the environment of mankind by

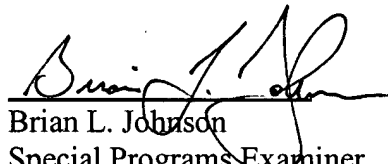
contributing to the restoration or maintenance of the basic-life sustaining natural elements" (i.e. air, water, and soil). (M.P.E.P. § 708.02, V). The contribution of petitioner's invention, does not appear to rise to the level intended by the Rule.

As a result, no advancement in the technology of Environmental Quality has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application will be returned to the examiner's docket to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

 10/20/04
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